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*Attorney for Plaintiff and the Proposed Class*

UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

DR. TIMOTHY COLLINS and SIDNEY  
NAIMAN, individually and on behalf of all  
others similarly situated,

Plaintiff,

v.

TOTAL MERCHANT SERVICES, INC.,  
QUALITY MERCHANT SERVICES, INC.,  
MICHAEL ALIMENTO and BOBBY  
POWERS

Defendants.

Case No. 4:17-cv-03806-CW

**DECLARATION OF ANTHONY I.  
PARONICH IN SUPPORT OF  
PLAINTIFF'S MOTION FOR  
CLASS CERTIFICATION**

JURY TRIAL DEMAND

Complaint Filed: July 5, 2017

DATE: August 14, 2018

TIME: 2:30 p.m.

LOCATION: 1301 Clay St.,  
Oakland, CA 94612

I, Anthony I. Paronich, declare as follows:

I am a partner at the law firm of Broderick and Paronich, P.C., co-counsel of record for Plaintiff in this matter. I am admitted to practice before this Court *pro hac vice* and am a member in good standing of the bar in the Commonwealth of Massachusetts. I respectfully submit this declaration in support of Plaintiff's Motion for Class Certification. Except as

otherwise noted, I have personal knowledge of the facts set forth in this declaration and could testify competently to them if called upon to do so.

1. Attached hereto as **Exhibit 1** is a true and correct copy of a document executed between Total Merchant Services and Quality Merchant Services that was produced by in this matter under the Bates Nos. TMS000528-TMS000530, which corresponds to Brian Alimento Depo. Tr., Ex. 5. This exhibit has been designated “Confidential.” Plaintiffs are therefore filing it under seal in compliance with the Stipulated Protective Order (Dkt. No. 40).

2. Attached hereto as **Exhibit 2** is a true and correct copy of a document between Total Merchant Services and Quality Merchant Services that was produced by in this matter under the Bates Nos. QMS000688-QMS000697, which corresponds to Brian Alimento Depo. Tr., Ex. 6. This exhibit has been designated “Confidential.” Plaintiffs are therefore filing it under seal in compliance with the Stipulated Protective Order (Dkt. No. 40).

3. Attached hereto as **Exhibit 3** is a true and correct copy of an e-mail produced by Quality Merchant Services under the Bates Nos. QMS008131-QMS008133, which corresponds to Brian Alimento Depo. Tr., Ex. 7. This exhibit has been designated “Confidential.” Plaintiffs are therefore filing it under seal in compliance with the Stipulated Protective Order (Dkt. No. 40).

4. Attached hereto as **Exhibit 4** is a true and correct copy of the Sales Representation Agreement between Total Merchant Services and Quality Merchant Services that was produced by in this matter under the Bates Nos. TMS000018-TMS000039, which corresponds to Brian Alimento Depo. Tr., Ex. 14. This exhibit has been designated “Confidential.” Plaintiffs are therefore filing it under seal in compliance with the Stipulated Protective Order (Dkt. No. 40).

5. Attached hereto as **Exhibit 5** is a true and correct copy of a complaint to Quality Merchant Services from a government authority about telemarketing. It was produced in this matter under the Bates No. QMS000726. This exhibit has been designated “Confidential.”

1 Plaintiffs are therefore filing it under seal in compliance with the Stipulated Protective Order  
2 (Dkt. No. 40).

3 6. Attached hereto as **Exhibit 6** is a true and correct copy of an e-mail produced by  
4 Quality Merchant Services under the Bates Nos. QMS008063-QMS008064, which corresponds  
5 to Brian Alimento Depo. Tr., Ex. 9. This exhibit has been designated "Confidential." Plaintiffs  
6 are therefore filing it under seal in compliance with the Stipulated Protective Order (Dkt. No.  
7 40).

8 7. Attached hereto as **Exhibit 7** is a true and correct copy of Quality Merchant  
9 Services' Supplemental Interrogatory Response dated May 16, 2018.

10 8. Attached hereto as **Exhibit 8** is a true and correct copy of an e-mail produced by  
11 Total Merchant Services under the Bates Nos. TMS000245-TMS000246, which corresponds to  
12 Brian Alimento Depo. Tr., Ex. 2. This exhibit has been designated "Confidential." Plaintiffs are  
13 therefore filing it under seal in compliance with the Stipulated Protective Order (Dkt. No. 40).

14 9. Attached hereto as **Exhibit 9** is a true and correct copy of an e-mail produced by  
15 Total Merchant Services under the Bates No. TMS000522. This exhibit has been designated  
16 "Confidential." Plaintiffs are therefore filing it under seal in compliance with the Stipulated  
17 Protective Order (Dkt. No. 40).

18 10. Attached hereto as **Exhibit 10** is a true and correct copy of an e-mail produced by  
19 Quality Merchant Services under the Bates Nos. QMS000173-QMS000174. This exhibit has  
20 been designated "Confidential." Plaintiffs are therefore filing it under seal in compliance with the  
21 Stipulated Protective Order (Dkt. No. 40).

22 11. Attached hereto as **Exhibit 11** is a true and correct copy of an e-mail produced by  
23 Quality Merchant Services under the Bates Nos. QMS000176-QMS000177, which corresponds  
24 to Brian Alimento Depo. Tr., Ex. 11. This exhibit has been designated "Confidential." Plaintiffs  
25 are therefore filing it under seal in compliance with the Stipulated Protective Order (Dkt. No.  
26 40).

1           12. Attached hereto as **Exhibit 12** is a true and correct copy of an e-mail produced by  
2 Total Merchant Services under the Bates No. TMS000204. This exhibit has been designated  
3 “Confidential.” Plaintiffs are therefore filing it under seal in compliance with the Stipulated  
4 Protective Order (Dkt. No. 40).

5           13. Attached hereto as **Exhibit 13** is a true and correct copy of an e-mail produced by  
6 Total Merchant Services under the Bates No. TMS000214. This exhibit has been designated  
7 “Confidential.” Plaintiffs are therefore filing it under seal in compliance with the Stipulated  
8 Protective Order (Dkt. No. 40).

9           14. Attached hereto as **Exhibit 14** is a true and correct copy of the expert report of  
10 Anya Verkhovskaya, without exhibits. The calling records produced by Quality Merchant and  
11 therefore analyzed by Ms. Verkhovskaya end on February 12, 2018.

12           15. Attached hereto as **Exhibit 15** is a true and correct copy of Quality Merchant  
13 Services’ Interrogatory Responses dated February 19, 2018.

14           16. Attached hereto as **Exhibit 16** is a true and correct copy of the deposition of Brian  
15 Alimento. Defendants have designated portions of the deposition “Confidential.” Plaintiffs are  
16 therefore filing this exhibit under seal in compliance with the Stipulated Protective Order (Dkt.  
17 No. 40).

18           17. Attached hereto as **Exhibit 17** is a true and correct copy of the deposition of  
19 Michael Alimento. Defendants have designated portions of the deposition “Confidential.”  
20 Plaintiffs are therefore filing this exhibit under seal in compliance with the Stipulated Protective  
21 Order (Dkt. No. 40).

22           18. Attached hereto as **Exhibit 18** is a true and correct copy of a document produced  
23 by Quality Merchant Services under the Bates Nos. QMS000702-QMS000722. This exhibit has  
24 been designated “Confidential.” Plaintiffs are therefore filing it under seal in compliance with the  
25 Stipulated Protective Order (Dkt. No. 40).

### Broderick & Paronich's Experience

19. I have extensive experience in the prosecution of class actions on behalf of consumers, particularly claims under the Telephone Consumer Protection Act, 47 U.S.C. §227.

20. I am a 2010 graduate of Suffolk Law School. In 2010, I was admitted to the Bar in Massachusetts. Since then, I have been admitted to practice before the Federal District Court for the District of Massachusetts, the District of Colorado, the Eastern District of Michigan and the Western District of Wisconsin. From time to time, I have appeared in other State and Federal District Courts *pro hac vice*. I am in good standing in every court to which I am admitted to practice.

21. Plaintiff's counsel have devoted a significant amount of time to investigating the potential claims and will continue to commit the resources necessary to represent the class.

22. A sampling of other class actions in which I have represented classes of consumers under the Telephone Consumer Protection Act and been appointed class counsel follows:

- i. Brey Corp t/a Hobby Works v. Life Time Pavers, Inc., Circuit Court for Montgomery County (Maryland), Civil Action No. 349410-V, TCPA class settlement of \$1,575,000 granted final approval in March of 2012.
- ii. Collins, et al v. ACS, Inc. et al, USDC, D. Mass., Civil Action No. 10-CV-11912, TCPA class settlement \$1,875,000 granted final approval on September 25, 2012.
- iii. Desai and Charvat v. ADT Security Services, Inc., USDC, ND. Ill., Civil Action No. 11-CV-1925, TCPA class settlement of \$15,000,000 granted final approval on June 21, 2013.
- iv. Kensington Physical Therapy, Inc. v. Jackson Therapy Partners, LLC, USDC, D. MD, Civil Action No. 11-CV-02467, TCPA class settlement of \$4,500,000 granted final approval on February 12, 2015.
- v. Jay Clogg Realty Group, Inc. v. Burger King Corporation, USDC, D. MD., Civil Action No. 13-cv-00662, TCPA class settlement of \$8,500,000 granted final

- approval on April 15, 2015.
- vi. Charvat v. AEP Energy, Inc., USDC, ND. Ill., 1:14-cv-03121, TCPA class settlement of \$6,000,000 granted final approval on September 28, 2015.
- vii. Mey v. Interstate National Dealer Services, Inc., USDC, ND. Ga., 1:14-cv-01846-ELR, TCPA class settlement of \$4,200,000 granted final approval on June 8, 2016.
- viii. Philip Charvat and Ken Johansen v. National Guardian Life Insurance Company, USDC, WD. Wi., 15-cv-43-JDP, TCPA class settlement for \$1,500,000 granted final approval on August 4, 2016.
- ix. Bull v. US Coachways, Inc., USDC, ND. Ill., 1:14-cv-05789, TCPA class settlement finally approved on November 11, 2016 with an agreement for judgment in the amount of \$49,932,375 and an assignment of rights against defendant's insurance carrier.
- x. Smith v. State Farm Mut. Auto. Ins. Co. , et. al., USDC, ND. Ill., 1:13-cv-02018, TCPA class settlement of \$7,000,000.00 granted final approval on December 8, 2016.
- xi. Mey v. Frontier Communications Corporation, USDC, D. Ct., 3:13-cv-1191-MPS, a TCPA class settlement of \$11,000,000 granted preliminary approval on January 26, 2017.
- xii. Biringer v. First Family Insurance, Inc., USDC, ND. Fla., USDC, 4:14-cv-00566-RH-CAS, a TCPA class settlement of \$2,900,000 granted final approval on April 24, 2017.
- xiii. Abramson v. Alpha Gas and Electric, LLC, USDC, SD. NY., 7:15-cv-05299-KMK, a TCPA class settlement of \$1,100,000 granted final approval on May 3, 2017.
- xiv. Heidarpour v. Central Payment Co., USDC, MD. Ga., 16-cv-01215, a TCPA class settlement of \$6,500,000 granted final approval on May 4, 2017.

- xv. Abramson v. CWS Apartment Home, LLC, USDC, WD. Tex., 16-cv-01215, a TCPA class settlement of \$368,000.00 granted final approval on May 19, 2017.
- xvi. Thomas Krakauer v. Dish Network, L.L.C., USDC, MD. NC., Civil Action No. 1:14-CV-333 on September 9, 2015. Following a contested class certification motion, this case went to trial in January of 2017 returning a verdict of \$20,446,400. On May 22, 2017, this amount was trebled by the Court after finding that Dish Network's violations were "willful or knowing", for a revised damages award of \$61,339,200. (Dkt. No. 338).
- xvii. Charvat v. Elizabeth Valente, et al., USDC, NDIL, 1:12-cv-05746, \$12,500,000 TCPA settlement granted preliminary approval on July 6, 2017.
- xviii. Mey v. Got Warranty, Inc., et. al., USDC, ND. WV., 5:15-cv-00101-JPB-JES, a TCPA class settlement of \$650,000 granted final approval on July 26, 2017.
- xix. Mey v. Patriot Payment Group, LLC, USDC, ND. WV., 5:15-cv-00027-JPB-JES, TCPA class settlement of \$3,700,000 granted final approval on July 26, 2017.
- xx. Charvat and Wheeler v. Plymouth Rock Energy, LLC, et al., USDC, EDNY, 2:15-cv-04106-JMA-SIL, a TCPA class settlement of \$1,675,000 granted preliminary approval on September 15, 2017.
- xxi. Abante Rooter and Plumbing, Inc. v. Birch Communications, Inc., USDC, NDGA, 1:15-cv-03262-AT. TCPA class settlement of \$12,000,000 granted final approval on December 14, 2017.
- xxii. Abante Rooter and Plumbing, Inc. v. New York Life Insurance Company, USDC, SD. NY., 1:16-cv-03588-BCM, a TCPA class settlement of \$3,350,000 granted final approval on February 27, 2018.
- xxiii. Fulton Dental, LLC v. Bisco, Inc., USDC, NDIL, 1:15-cv-11038. TCPA class settlement for \$262,500 granted final approval on March 7, 2018.
- xxiv. Toney v. Quality Resources, Inc., Cheryl Mercuris and Sempris LLC, et al., USDC, ND. Ill., 1:13-cv-00042, TCPA class settlement of \$2,150,000 was

1 granted final approval on December 1, 2016, and a second settlement against the  
2 remaining defendants for \$3,300,000 was granted preliminary approval on May  
3 30, 2018.

4 xxv. In re Monitronics International, Inc., USDC, ND. WV., 1:13-md-02493-JPB-JES,  
5 a TCPA class settlement of \$28,000,000 granted final approval on June 12,  
6 2018.

7 I declare under penalty of perjury under the laws of the United States of America that the  
8 foregoing is true and correct.

9 EXECUTED in Plymouth, Massachusetts, this 10th day of July, 2018.

10  
11 /s/ Anthony I. Paronich  
12 Anthony I. Paronich,  
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